

**Notice of Allowability**

Application No.

09/781,046

Applicant(s)

WANG, KANGSHENG

Examiner

Thaia N. Ton

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/11/05.
2. ☒ The allowed claim(s) is/are 22, 27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>8/11/03</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input checked="" type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                   | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____  |

### EXAMINER'S AMENDMENT

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/2/05 has been entered.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Patrick Morris on August 30, 2005.

Title:

The title has been changed to the following:

**Sperm-specific Monoclonal Antibody, mAbC**

In the claims:

1. Cancel claims 1-21, 23-26.
2. Add the following claim:
  27. The hybridoma cell line deposited as ATCC accession number PTA-6723, which produces the monoclonal antibody, mAbC.

In the specification:

1. On page 4, paragraph [0017], line 2 of the paragraph, replace, "FIG. 13" with – FIG. 9 –.
2. On page 9, paragraph [0031], replace line 1 of the paragraph with the following:

This example illustrates the ability of the linker antibody, mAbC, that is secreted from the hybridoma cell line assigned the deposit designation number PTA-6723, deposited on May 24, 2005 with the American Type Culture Collection, 10801 University Boulevard, Manassas, Virginia 20110-2209, to bind to

3. On page 23, 1<sup>st</sup> line, replace "Claims" with – I claim: --.

***Examiner's Comment***

**Biological Deposit:**

The Declaration of Biological Deposit, filed 8/11/05, has been considered and is proper. However, Applicants must provide the copy of the Receipt confirming deposit under the Budapest Treaty (see #3, p. 2 of the Declaration).

***Election/Restrictions***

The Restriction requirement, mailed 4/26/02, is withdrawn in view of the allowability of the instantly claimed product. In a telephonic conversation with Patrick Morris on 8/30/05, the Examiner noted that the Restriction requirement, mailed on 4/26/02 required restriction between product and process claims. Applicants elected the product claim, which has now been found allowable. Applicants were given the option of rejoinder of the process claims in this telephonic conversation, in accordance with the provisions of MPEP § 821.04. However, it was noted that the process claims did not include all of the limitations and same scope of the patentable product, and thus, would raise potentially new issues for examination. Applicants agreed to cancel the remaining withdrawn claims.

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: The claims are directed to a new monoclonal antibody (mAbC) that is not disclosed by the prior art, and is enabled in light of the deposit.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Thaian N. Ton whose telephone number is (571) 272-0736. The Examiner can normally be reached on Monday through Friday from 8:00 to 5:00 (Eastern Standard Time), with alternating Fridays off. Should the Examiner be unavailable, inquiries should be directed to Ram Shukla, SPE of Art Unit 1632, at (571) 272-0735. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the Official Fax at (571) 273-8300. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*tnt*

Thaian N. Ton  
Patent Examiner  
Group 1632

  
JOSEPH WOTACH, PH.D.  
PRIMARY EXAMINER